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January 5, 2014

Via ECF

Hon. George B. Daniels
United States District Judge
United States District Court for the Southern District of New York
500 Pearl Street
New York, NY 10007-1312

Re: *Sokolow v. Palestine Liberation Organization et al.*
04-CV-397(GBD)(RLE)

Dear Judge Daniels:

I seek the Court's rulings in advance of trial on Defendants' hearsay and authenticity objections to Plaintiffs' trial exhibits 181, 184, 187, 191, 193, 221, 227-30, 264, 352, 395, 491-92, 495, 498, 517-18, 630, 636, 833, 829, 830, 944-45, 955, and 1077, which are composed of newspaper and magazine articles, third party website material, and third party dissertations, videos, studies, and reports.¹ For the Court's convenience, the exhibits are identified in the chart, which begins on the next page.

Defendants have objected to these exhibits on authenticity and hearsay grounds, among others, including lack of relevance. *See* DE 544. The Court has not yet had an opportunity to rule on Defendants' objections. Plaintiffs, for their part, have refused to cull their set of approximately 1,000 trial exhibits to eliminate those as to which they have no credible basis for seeking their admission. As will be evident when the Court reviews the chart, these exhibits constitute quintessential examples of inadmissible hearsay, and most include multiple levels of hearsay. Moreover, Plaintiffs have not disclosed any witnesses who can authenticate these exhibits. To avoid repeated interruption of the trial for rulings on admissibility of exhibits and the associated inconvenience to the jury, Defendants respectfully request that the Court exclude these exhibits in advance of trial.

¹ Third party videos PTE 372, 925, and 957 are separately addressed in DE 702 (Defendants' letter motion *in limine* re "For the Sake of Allah," "Suicide Killers," and raw footage of purported Abdullah Barghouti prison interview).

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PTE No.	Date	Purported Source	Title
181	9/29/2010	Alsharq al-Awsat ("the Arab International Newspaper")	"Al-Zahar Assails Fatah: Progress on the Reconciliation Front is Due to American Green Light"
184	03/08/2000	Al Khalil News	"Official under the Microscope"
187	Unknown	Unknown	Captioned "Behind the Headlines" and purports to quote another newspaper Falasteen al-Yawm.
191	06/29/2001	Al-Hiyat al-Jadida	"During a Lecture Given to the Members of Martyr Fakri al-Umari Session / Ezzedine: Ceasefire Decision not Incompatible with Continuing the <i>Intifada</i> "
193	Unknown	Unknown	Captioned "Behind the Headlines" and purports to quote newspaper "al Sabah"
221	2010	Universidad de Granada, doctoral thesis of Bassam Yousef Ibrahim Banat	"Palestinian Suicide Martyrs (Istishhadiyin): Facts and Figures"
227	04/07/2013	Al Jazeera.net	"Palestinian Authority Criticizes Israel's Detention of Member"
228	Unknown	BBC Documentary	"Arafat Investigated"
229	12/26/2012	Al Ayyam	"Factions: Widespread Report on Egyptian Plans to Convene Reconciliation Meetings Next Month Untrue"
230	11/09/2000	The Jerusalem Post	"Mubarak: Arafat remains committed to peace"
264	9/5/2010	Al-Ayyam	"Qarage': Occupation Detained 300 Citizens from West Bank Last Month"
352	Unknown	Unknown	"Documentary: Brides of Shahida"
395	1/27/2002	Time	"Inside Arafat's Bunker"
491	1/31/2002	New York Times	"Arab Woman's Path to Unlikely 'Martyrdom'"

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PTE No.	Date	Purported Source	Title
492	October 2002	Human Rights Watch	"Erased In A Moment: Suicide Bombing Attacks Against Israeli Civilians"
495	July 2002	Center for Strategic and International Studies	"Israel versus the Palestinians: The 'Second Intifada' and Asymmetric Warfare (Working Draft)"
498	4/20/2012	Ha'aretz	"Grilling on top Palestinian militant exposes Arafat's link to terror attacks on Israelis, papers how"
517	11/7/2003	BBC News	"Palestinian Authority funds go to militants"
518	October 2010	The Institute for National Security Studies	"Strategic Assessment"
630	1/1/2006	Intelligence and Terrorism Information Center at the Center for Special Studies	"Suicide bombing terrorism during the current Israeli-Palestinian confrontation (September 2000 – December 2005)"
636	November 1999	Palestinian Human Rights Monitoring Group	"Media in Palestine: Between the PNA's Hammer and the Anvil of Self-Censorship"
833	2/4/2002	Intelligence and Terrorism Information Center at the Center for Special Studies	"The Cooperation Between Fatah and the PA Security Apparatuses with PIJ and Hamas in the Jenin Area"
829	5/3/2002	Unknown	"The 'Al Aqsa Martyrs brigades' (on US State Department list of terror organizations) and the Fatah Organization are one and the same, and Yasser Arafat is their leader and commander"
830	Unknown	Unknown	"The Palestinian Authority: Employs Fatah Activists Involved in Terrorism and Suicide Attacks"

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PTE No.	Date	Purported Source	Title
944	11/1/2007	UN Watch	"The United Nations and Anti-Semitism: 2004-2007 Report Card"
945	7/5/2013	UN Watch	"UN Chief Again Slams Richard Falk, 'Vehemently Disagrees' with 9/11 Conspiracy Theory"
955	6/11/2002	The Associated Press	"Bomb wounds three Israeli teenagers, Israel Maintains siege on Arafat compound"
1077	1/2/2001	Time	"Clinton Saves Last Dance for Arafat"

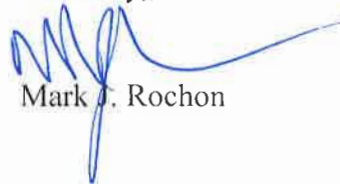
Courts in the Second Circuit have consistently ruled that newspaper articles are inadmissible hearsay. *Tokio Marine and Fire Ins. Co. v. Rosner*, 206 Fed. App'x 90, 95 (2d Cir. 2006) (noting that a plaintiff could not "avoid summary judgment by pointing to a May 2003 news article" because "[t]he article is inadmissible hearsay"); *Jacobson v. Deutsche Bank, A.G.*, 206 F.Supp.2d 590, 594 (S.D.N.Y. 2002), *aff'd* 59 Fed. App'x 430 (2d Cir. 2003) (concluding that where a news article was offered to prove that the plaintiff made the comments attributed to him in the article, the article was hearsay and, moreover, that neither the residual nor recorded recollection exceptions to the hearsay rule applied); *United States v. Mingo*, 112 F.3d 506 (2d Cir. 1996) (noting that a newspaper article would qualify as hearsay under F.R.E. 801). Therefore, to the extent Plaintiff's intend to rely on the newspaper articles for the truth of the matters reported on, exhibits 181, 184, 187, 191, 193, 227, 229, 230, 264, 395, 491, 498, 517, 955, and 1077 must be excluded from evidence.

Likewise, books and dissertations or other reports written by third parties are not admissible. *See Fisher v. United States*, 78 Fed. Cl. 710, 713 (Fed. Cl. 2007) (where plaintiff sought to introduce "a number of books and articles that 'deal with the valuation of businesses and interests in businesses'" the court concluded that the books and articles would "fall under the category of hearsay because each book and article is 'a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted'" and could not be admitted as exhibits); *United States v. Bartlett*, 821 F.2d 650 (6th Cir. 1987) (finding no error where "[t]he district court ruled that the book was inadmissible since it contained hearsay statements which were offered for the purpose of proving the truth of the matter asserted").

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Accordingly, for the reasons stated above, the Court should exclude Plaintiffs' exhibits on authenticity and hearsay grounds.

Sincerely,

A handwritten signature in blue ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

Mark J. Rochon